



**US Army Corps
of Engineers.
Philadelphia District**

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No.
CENAP-OP-R-2008-965-35

Date

JAN 22 2009

Application No.

File No.

In Reply Refer to:
REGULATORY BRANCH

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: Robert Vigorito

AGENT: Trident Environmental Consultants
1856 Route 9
Toms River, New Jersey 08755
Attn: Mr. Kyle Weise

WATERWAY: Breton Harbors

LOCATION: 96 Tennyson Avenue, Lots 470 and 475, Block 719, Toms River Township, Ocean County, New Jersey.

ACTIVITY: The applicant has applied to mechanically dredge 1,348 square feet of Breton Harbor in front of his property located at 96 Tennyson Avenue, Toms River, New Jersey. (see Enclosures 1 & 2). The proposed dredging, to a depth of -3' mean low water, would generate approximately 100 cubic yards of material. The dredged material, which is comprised of 85% sand (on average), would be dewatered on the upland portions of the subject property and spread once dried.

Existing depths within the area to be dredged range from -1' to -2.88' MLW. The proposed target depth within the area to be dredged is -3' MLW. Numerous docks with moored vessels line the shoreline of Breton Harbor in this vicinity where depths reach -5' MLW. According to information supplied by the applicant, the 30' boat currently moored at this site has a draft of 2' to 2.5'.

The existing 3' wide by 25' long dock on the property was authorized on April 5, 1991 to Ms. Jeanne Sirois under State Programmatic General Permit 19. The State permit number for this dock is 1507-90-0134.1 and the Corps file number is CENAP-OP-R-199101450. The permit has been transferred to Mr. Robert Vigorito.

PURPOSE: The applicant's stated project purpose is to provide adequate and safe depths for navigation.

A preliminary review of this application indicates that the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work should be submitted, in writing, within 15 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work.

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act 1996 (Public Law 104-267), requires all Federal agencies to consult with the National Marine Fisheries Service on all actions, or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect Essential Fish Habitat (EFH). A preliminary assessment of the species listed in the "Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware", dated March 1999, specifically page 20, indicates that the dredging would adversely affect Winter Flounder (*Pseudopleuronectes americanus*) eggs and larvae during dredging. A conservation recommendation to mitigate for the adverse affect would be to exclude dredging between January 1 to May 31 of any given year.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

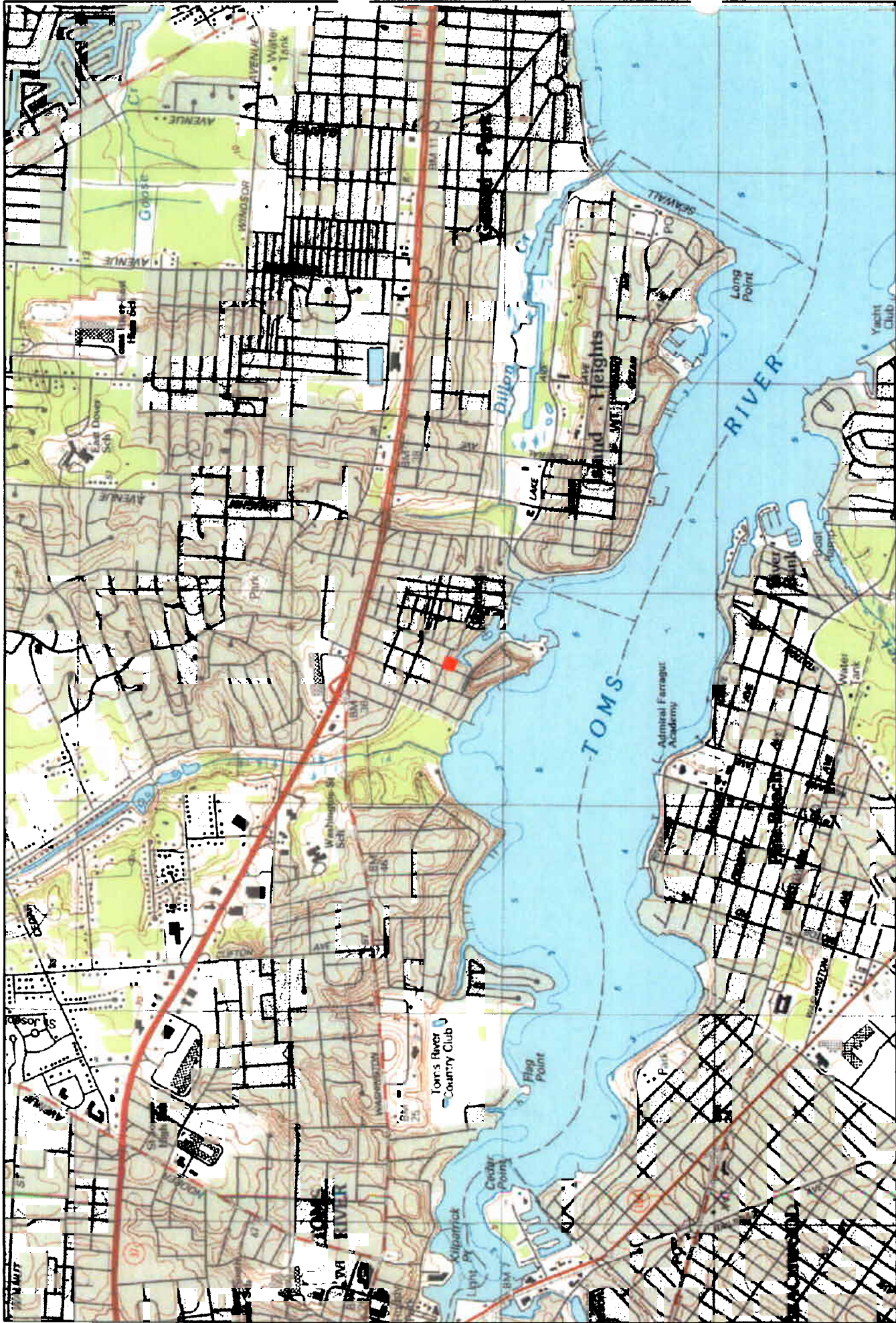
The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.


Additional information concerning this permit application may be obtained by calling Mr. Michael H. Hayduk at (215) 656-5822 between the hours of 1:00 and 3:30 p.m. or writing this office at the above address.



Frank J. Cianfrani
Chief, Regulatory Branch



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| Job No.: T1518.001 | | No. _ of _ |
| Scale: 1" = 2000' | | |
| Date: 7/15/08 | | |
| Drawn By: KW | | |



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Toms River USGS Quadrangle Map

Block 719 * Lots 470 & 475

Toms River Twp., Ocean Co., NJ

